

500.34763CX4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: H. MASUI, et al

Serial No.: 10/023,736

Filed: December 21, 2001

For: CDMA MOBILE COMMUNICATION SYSTEM AND
COMMUNICATION METHOD

Group: 2665

Examiner: S. H. D. Nguyen

RECEIVED
CENTRAL FAX CENTER

JUL 24 2006

SUBMISSION OF TERMINAL DISCLAIMERCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 24, 2006

Sir:

Attached is a Terminal Disclaimer submitted in an effort to place this application in condition for allowance.

Accordingly, early allowance of claims 18-26 is respectfully requested.

To the extent necessary, applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1417 (Case No. 500.34763CX4) and please credit any excess fees to such Deposit Account.

Respectfully submitted,



Carl I. Brundidge
Registration No. 29,621
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

CIB/jdc
703/684-1120

07/25/2006 10:20 AM 00000015 10023736

02-FO-1014

138788-0P

PTO/SB/26 (09/04)

Approved for use through 07/31/2006. OMB 0651-0031

United States Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

**TERMINAL DISCLAIMER TO OBIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
500.34763CX4

In re Application of: H. MASUI, et al

Application No.: 10/023,736

Filed: December 21, 2001

For: CDMA MOBILE COMMUNICATION SYSTEM AND COMMUNICATION METHOD

The owner, **HITACHI, LTD.** (As per the Assignment recorded on Reel 8156 and Frame 0541) of the ENTIRE percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent Nos. **6,393,013; 6,269,088 and 6,570,865** as the terms of said prior patents are defined in 35 USC 154 and 173, and as the terms of said prior patents are presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 USC 154 and 173 of the prior patents, "as the terms of said prior patents are presently shortened by any terminal disclaimer," in the event that said prior patents later:

- expires for failure to pay a maintenance fee;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is issued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.


Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Reg. No. 29,621


Signature

July 24, 2006
Date

Carl I. Brundidge
Typed or printed name

(703) 684-1120
Telephone number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form.

Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP §324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or receive a benefit by the public which is to the (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is warranted to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22303-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AOC, Commercial Paper Division, P.O. Box 1460, Alexandria, VA 22303-1460.

If you need assistance in completing this form, call 1-800-PTO-0190 and select option 2.

07/25/2006 MBINAS 00000015 10023736

02 FC:1814

130.00 OP